

**United States Department of Labor
Employees' Compensation Appeals Board**

L.K., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Fort Worth, TX, Employer**

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**Docket No. 07-2389
Issued: April 24, 2008**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On September 21, 2007 appellant timely appealed the July 2, 2007 merit decision of the Office of Workers' Compensation Programs, which denied her claim for recurrence of a medical condition. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of the claim.¹

ISSUE

The issue is whether appellant sustained a recurrence of a medical condition causally related to her August 2, 1983 employment injury.

¹ The record on appeal includes additional medical evidence received after the Office issued its July 2, 2007 decision. The Board cannot consider evidence for the first time on appeal. The review of a case shall be limited to the evidence in the case record which was before the Office at the time of its final decision. 20 C.F.R. § 10.501.2(c) (2007).

FACTUAL HISTORY

Appellant, a 61-year-old letter carrier, injured her right middle finger in the performance of duty on August 2, 1983. She was inserting mail in a door slide when the door fell, catching her right middle finger as she pulled her hand out. Appellant sustained a laceration from her fingernail to the first knuckle. She was treated at the employing establishment health unit the day of the injury and did not incur any medical expenses. Appellant did not lose any time from work as a result of the August 2, 1983 employment incident. She filed a traumatic injury claim (Form CA-1) on August 4, 1983, which was signed by her supervisor and placed in her official personnel folder. The circumstances did not warrant forwarding the claim to the Office at that time.

Almost two decades later, appellant wrote the Office advising that she needed to see a doctor regarding her August 2, 1983 employment injury. Appellant provided the Office a copy of the August 4, 1983 Form CA-1 she had previously filed with the employing establishment. On September 23, 2002 the Office informed appellant that her claim was accepted for laceration, right hand (ICD-9 882.0). The Office further noted that the case was accepted and closed. Appellant was advised to file a notice of recurrence for any future medical treatment she may need regarding her 1983 injury.

On April 10, 2006 appellant filed a notice of recurrence (Form CA-2a) for medical treatment only.² She explained that over the years she experienced soreness and calluses, but in the past three months the pain in her finger had been more persistent. Appellant described her current condition as a painful and throbbing finger, which she believed required medical attention. Appellant continued to work, with no loss of pay. She filed another Form CA-2a on May 10, 2006. Appellant, however, did not submit any medical evidence with either recurrence claim. The Office advised her of the need for such evidence on October 13, 2006, but appellant did not respond to the Office's request for additional medical evidence.³ In a decision dated November 20, 2006, the Office denied appellant's recurrence claim.

On March 5, 2007 appellant requested reconsideration. She submitted a February 14, 2007 report from Dr. Munir A. Shah, a Board-certified orthopedic surgeon, who diagnosed right long finger distal interphalangeal (DIP) joint osteoarthritis and right carpal tunnel syndrome. Dr. Shah noted that appellant had a five-year history of right long finger pain.

By decision dated July 2, 2007, the Office denied modification of the November 20, 2006 decision.

² An earlier claim filed in October 2002 was returned by the Office because the claim form had not been completed properly.

³ The only medical evidence of record at the time was the employing establishment's health unit treatment records for the period February 1981 to July 1987.

LEGAL PRECEDENT

A recurrence of a medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage.⁴ Continuous treatment for the original condition or injury is not considered a “need for further medical treatment after release from treatment,” nor is an examination without treatment.⁵

Where an employee claims a recurrence due to an accepted employment injury, she has the burden of establishing that the recurrence is causally related to the original injury.⁶ This burden includes the necessity of furnishing evidence from a qualified physician who concludes, on the basis of a complete and accurate factual and medical history, that the condition is causally related to the employment injury.⁷

ANALYSIS

Appellant’s traumatic injury claim was accepted for a laceration of the right hand. The actual site of the laceration was appellant’s right middle finger from the fingernail to the first knuckle. The Office did not accept appellant’s claim for right middle finger DIP joint osteoarthritis.⁸ Where appellant claims that a condition not accepted or approved by the Office was due to her employment injury, she bears the burden of proof to establish that the condition is causally related to the employment injury.⁹ Dr. Shah’s February 14, 2007 report did not include a history of appellant having injured her right middle finger on August 2, 1983. He merely noted that she was a letter carrier who had a five-year history of right long finger pain. Moreover, Dr. Shah did not even offer an opinion as to the cause of appellant’s current arthritic condition. The record on appeal is devoid of any medical evidence linking appellant’s right middle finger DIP joint osteoarthritis to the laceration she sustained at work on August 2, 1983. Accordingly, the Office properly denied appellant’s recurrence claim.

⁴ 20 C.F.R. § 10.5(y).

⁵ *Id.*

⁶ *Mary A. Ceglia*, 55 ECAB 626, 629 (2004).

⁷ *Id.*

⁸ Appellant has a separate claim which the Office accepted for right carpal tunnel syndrome with an August 4, 1990 date of injury (16-0181725).

⁹ *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. *See Robert G. Morris*, 48 ECAB 238 (1996). A physician’s opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician’s opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant’s specific employment factors. *Id.*

CONCLUSION

Appellant did not establish that she sustained a recurrence of a medical condition causally related to her August 2, 1983 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the July 2, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 24, 2008
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board